

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

<p>MICHAEL MCKENZIE, individually and doing business as AMERICAN IMAGE ART, an unincorporated d/b/a,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>ARTISTS RIGHTS SOCIETY, INC., and JANET HICKS,</p> <p style="text-align: center;">Defendants.</p>	<p>CIVIL NO. 1:22-cv-01619-MKV</p> <p>Request for Clerk's Certificate of Default Judgment</p>
---	---

**DECLARATION IN SUPPORT OF PLAINTIFF'S REQUEST
FOR CLERK'S CERTIFICATE OF DEFAULT**

I, John J.E. Markham II, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of Markham Read Zerner LLC, attorneys for Plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of Plaintiff's application for the entry of a default judgment against Defendants.

3. This is an action to recover over \$10,000,000 owed by Defendants to Plaintiff for a years-long pattern of racketeering activities and crimes in violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, *et seq.*, which were accomplished by: engaging in false designations of origin and false advertising under the Lanham Act, 15 U.S.C. § 1125(a); performing repeated, sustained schemes to obtain money by false pretenses through the sale of licenses to an uncopyrighted work of art; using wire communications in interstate and

foreign commerce to further those frauds, in violation of 18 U.S.C. § 1343; and through repeated acts of money laundering and illegal monetary transactions in violation of 18 U.S.C. §§ 1956 and 1957. *See* ECF 1, at ¶¶ 6–7.

4. Jurisdiction of the subject matter of this action is based on Counts I and II of the Verified Complaint arising under the laws of the United States—that is, under federal question jurisdiction.

5. This action was commenced on February 27, 2022, by the filing of the summons and complaint. A copy of the summons and complaint was served on the Defendants on May 24, 2022, by personal service on Janet Hicks, individually and in her capacity as a general agent of Artists Rights Society, Inc., and proof of service by the Special Process Server was filed on May 26, 2022, as to each Defendant. The Defendants have not answered the complaint and the time for the Defendants to answer the complaint has expired.

6. Defendants ARS and Hicks are not infants, nor are they in the military, nor are they otherwise incompetent.

7. This action seeks judgment for a liquidated amount in excess of \$10,000,000, plus interest, which is justly due and owing, and no part of which has been paid, to be determined after an inquest. This action also seeks injunctive relief, as detailed in Plaintiff's Complaint (ECF 1 at pp. 29–30).

WHEREFORE, Plaintiff requests the entry of Default and the entry of a Judgment as to liability against Defendants.

I declare under penalties of perjury that the forgoing is true and correct.

Executed this twenty-third day of June, 2022, in Boston, Massachusetts.

Respectfully submitted,

/s/ John J. E. Markham, II

John J. E. Markham, II (JM4744)

Bridget A. Zerner (BZ2582)

MARKHAM READ ZERNER LLC

One Commercial Wharf West

Boston, Massachusetts 02110

Tel: (617) 523-6329

Fax: (617) 742-8604

jmarkham@markhamreadzerner.com

bzerner@markhamreadzerner.com